

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

**RE: PETITION OF BAY STATE GAS COMPANY
FOR APPROVAL OF REVISED TARIFFS**

DTE 05-27

**LOCAL 273 MOTION TO PRESERVE STATUS QUO AND PRESERVE
DEPARTMENT'S JURISDICTION PENDING FINAL DECISION**

Local 273 of the Utility Workers Union of America ("Local 273") respectfully requests that the Department issue an order prohibiting Bay State Gas Company ("Bay State") from moving forward with its plans to outsource the jobs of current Bay State employees, at least until the issuance of a final decision in this case, in order to preserve the status quo and protect the Department's own jurisdiction to render a meaningful decision on the just and reasonable rates that Bay State should be allowed to collect. Local 273 also requests oral argument on this motion during the week of June 20 to allow for a ruling before hearings begin. In support of this motion, Local 273 offers the facts and arguments stated below. It also is filing a separate Memorandum in Support.

1. NiSource, the parent company of Bay State, has recently chosen IBM to outsource jobs in as many as seven NiSource departments. Attached Affidavit of Kevin Friary ("Friary Aff."), ¶ 4. As early as April 29, NiSource circulated a "NiSource Outsourcing Fact Sheet" noting that NiSource "has selected IBM as the business process service provider with whom the company will move forward into a period of exclusive negotiations toward a contract to outsource business

support activities.” Friary Aff., Attachment A. On May 24, 2005, NiSource President Robert Skaggs circulated a memorandum advising employees that the outsourcing arrangement with IBM “will result in some job eliminations.” Friary Aff., Attachment B. The jobs of as many as 100 Bay State employees could be affected. Friary Aff., ¶ 4.

2. NiSource has already circulated to Bay State employees an “IBM Personal Profile Sheet” which, along with other publicly-released information, makes it likely that an announcement of job outsourcing and job reductions is imminent. Friary Aff., ¶ 5 and Attachment C. In a recent article in the Quincy Patriot-Ledger, Carol Churchill, a spokeswoman for NiSource, said that the company is “going to try by the end of June to let them [employees] know what the status is.”¹

3. The Massachusetts-based Bay State employees whose jobs are most likely to be outsourced include those who perform billing functions and those involved in answering phones and providing customer service. Friary Aff., ¶ 6. The current employees who perform these jobs often have decades of experience on the job, have been well-trained by Bay State, and are committed to providing the highest-quality service. Many of these employees are women, often the sole source of income for their households. Friary Aff., ¶ 7. Loss of these jobs would cause substantial and irreparable harm to them.

4. Bay State has in the past engaged in outsourcing and staff reductions that have weakened service quality and exposed the public to grave safety risks. Approximately three years ago, staffing levels were reduced in the Springfield, Massachusetts call center that services Bay State and its affiliate Northern Utilities. These call center employees are not members of Local 273

¹ The June 3, 2005 Quincy Patriot-Ledger article, “Layoffs loom for workers at Bay State Gas,” is attached.

and, therefore, Local 273 was not directly affected. However, customer service was detrimentally affected. As a result of the staff reductions, the telephone response rate at the Springfield call center plummeted, affecting both calls from Bay State callers in Massachusetts and calls from customers at Bay State's New Hampshire affiliate. As a result of the plummeting telephone response rate at the centralized Springfield call center, the New Hampshire Public Utilities Commission imposed a service quality penalty on Bay State's New Hampshire affiliate for five straight months. Friary Aff., ¶ 8.

5. In 1998, Bay State engaged in outsourcing that had tragic results. Bay State decided to outsource its locating function, that is, the function of marking gas lines in connection with road openings, construction, and the like. Local 273 had urged the company not to outsource because it was concerned that the risks to public safety were too grave. On March 4, 1998, a gas explosion in Attleboro killed two people, completely destroyed one home and damaged 68 other homes. The failure of Bay State's outside locator service to mark the gas line leading to the destroyed home was the primary cause of the resulting deaths and property damage. In this particular instance, Bay State's desire to cut costs resulted in two people losing their lives. Shortly thereafter, Bay State brought the locating function back in house. Friary Aff., ¶ 8.

6. The Department has "general supervision of all gas and electric companies" and is directed to "make all necessary examination and inquiries and keep itself informed as to the conditions of the respective properties owned by such corporations and the manner in which they are conducted with reference to the safety and convenience of the public." G. L. ch. 164, § 76. The Department has also been given specific authority over the staffing levels at regulated gas and electric companies. G. L. ch. 164, §§ 1E(a), (b) & 1F(7). The Department also has the

explicit authority to review and set utility rates, as it is doing in the present case. G. L. ch. 164, § 94.

7. Allowing Bay State to proceed with outsourcing and staffing reductions while this case is still pending will undermine the Department's authority and obligation to set just and reasonable rates; will thwart the mandate of the legislature that the Department set benchmark staffing levels for regulated utilities; will cause irreparable harm to the workers who will lose their jobs; and may cause irreparable harm to customer service quality. Local 273 has no other remedy at law to protect against these harms other than to seek an order from the Department to preserve the status quo pending resolution of this case. Local 273 should be allowed to fully litigate the issues relating to outsourcing before Bay State is allowed to proceed unilaterally, especially as to the issue of whether the proposed outsourcing and layoffs would violate G. L. ch. 164, § 1E and other laws. Granting of such an order will create little harm for Bay State as its current rates are based on much higher staffing levels than even its current staffing levels, and because the company is obliged by law to provide high-quality and dependable service. Granting of the requested order is also in the public interest as it will preserve the Department's ability, pending a final decision in this case, to review Bay State's compliance with the staffing level requirements of G. L. ch. 164, §§ 1E & 1F(7); to ensure that Bay State's rates are just and reasonable; and to ensure that Bay State will be providing adequate service to customers during the period that the proposed rates will be in effect.

8. Local 273 is separately filing a Memorandum in support of this Motion.

In conclusion, Local 273 respectfully asks the Department to grant its motion for an order

to preserve the status quo pending the final decision in this case.

Respectfully Submitted,

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